

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KENNETH J. CHRISTOPHER,

Plaintiff,

v.

Case No. 12-cv-11872

OWNIT MORTGAGE SOLUTIONS, INC., et al.

Defendants.

**ORDER STRIKING “PLAINTIFF’S FIRST AMENDED COMPLAINT TO SET ASIDE
SHERIFF’S SALE AND/OR FORCE JUDICIAL FORECLOSURE”**

Plaintiff Kenneth J. Christopher filed a complaint in the 16th Judicial Circuit Court of Macomb County, Michigan on March 13, 2012. Defendant Merrill Lynch Mortgage Investors, Inc. removed the case under 28 U.S.C. § 1441(a) to the United States District Court for the Eastern District of Michigan on April 25, 2012. Defendants subsequently filed their answer on May 18, 2012. On August 17, 2012, Plaintiff filed an amended complaint without Defendants’ consent or the court’s leave.

Federal Rule of Civil Procedure 15 governs when a pleading may be amended. A party may amend its pleading once as a matter of course within twenty-one days of serving the pleading or twenty-one days after service of a responsive pleading. Fed. R. Civ. P. 15(a)(1). When that time period has passed, a party may amend its pleading only with the opposing party’s written consent or the court’s leave. *Id.* 15(a)(2).

More than twenty-one days has passed since both Plaintiff filed his complaint and Defendants filed their answer. Defendants have not given Plaintiff their written consent to file an amended complaint. Plaintiff has not requested, and the court has not

granted, leave to file an amended complaint. Plaintiff's amended complaint is therefore improper and will be stricken from the docket. Accordingly,

IT IS SO ORDERED that "Plaintiff's First Amended Complaint to Set Aside Sheriff's Sale and/or Force Judicial Foreclosure" is STRICKEN.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: August 23, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, August 23, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522